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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/725,639

12/02/2003

John Williams

4543

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LAW OFFICES OF ADAM H. JACOBS  
SUITE 726  
1904 FARNAM STREET  
OMAHA, NE 68102

EXAMINER

SIKRI, ANISH

ART UNIT

PAPER NUMBER

2112

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/725,639	<b>Applicant(s)</b> WILLIAMS, JOHN	
	<b>Examiner</b> Anish Sikri	<b>Art Unit</b> 2112	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Detailed Office Action**

***Specification***

The abstract of the disclosure is objected to because of grammatical mistake of the word "therewithin" it should be "there within". Correction is required. See MPEP § 608.01(b).

***Claim Objections***

**Claim 1** is objected to because of the following informalities: Grammatical mistake of the word "therewithin" (Page 13, Line 11) it should be "there within".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims **1-4,6, and 7** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In **Claim 1**, the term "generally independent and generally secure" is a relative term, which renders the claim indefinite. The term "generally independent and generally secure" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The adverb "generally" makes the interpretation of the term "generally independent and generally secure" very broad without regard to specific details or exceptions. It does not provide distinction on what "generally" is independent or what "generally" is secure.

In **Claim 2**, the term "generally impervious to externally-based operational disruptions to facilitate generally uninterrupted exchange of stored transmitted backup data" is a relative term, which renders the claim indefinite. The word "generally" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The adverb "generally" makes the interpretation of the term

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"generally impervious to externally-based operational disruptions to facilitate generally uninterrupted exchange of stored transmitted backup data" very broad without regard to specific details or exceptions. It does not provide distinction on what "generally" is impervious or what "generally" is uninterrupted.

In **Claim 3**, the term "generally free of significant modification" is a relative term, which renders the claim indefinite. The word "generally" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The adverb "generally" makes the interpretation of the term "generally free of significant modification" very broad without regard to specific details or exceptions. It does not provide distinction on what "generally" is free of significant modification.

In **Claim 4**, the term "generally free of significant modification" is a relative term, which renders the claim indefinite. The word "generally" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The adverb "generally" makes the interpretation of the term "generally free of significant modification" very broad without regard to specific details or exceptions. It does not provide distinction on what "generally" is free of significant modification.

In **Claim 6**, the term "generally independent and generally secure" is a relative term, which renders the claim indefinite. The term "generally independent and generally secure" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be

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reasonably apprised of the scope of the invention. The adverb "generally" makes the interpretation of the term "generally independent and generally secure" very broad without regard to specific details or exceptions. It does not provide distinction on what "generally" is independent or what "generally" is secure.

In **Claim 7**, the term "generally independent and generally secure" and "generally free of significant modification" is a relative term, which renders the claim indefinite.

The term "generally independent and generally secure" and "generally free of significant modification" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The adverb "generally" makes the interpretation of the term "generally independent and generally secure" and "generally free of significant modification" very broad without regard to specific details or exceptions. It does not provide distinction on what "generally" is independent or what "generally" is secure or what "generally" is free of significant modification.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1 to 7** are rejected under 35 U.S.C. 102(e) based as being anticipated by Hamilton et al (US Pat. 6,389,552 B1).

In **Claim 1**, Hamilton et al. clearly discloses “a secure data backup communications system for providing remote secure data storage for connected user systems in the event of loss of on-site original or backup data comprising: a remote backup central communications and storage facility operative to receive and store backup electronic data an accessible data storage system” (Col 1, lines 34-44, lines 50-52 and Col 2, lines 20-32).

Hamilton et al also discloses the invention has a “generally independent and generally secure information transmission communication means separate from utility-based communications networks, said generally independent and generally secure information transmission communication means extending between and connecting said remote backup central communications and storage facility and a connected user”



system of said secure data backup communications system" (Col 1 lines 40-44, Col 5 lines 1-4, lines 37-39, lines 40-49). Hamilton et al's invention clearly states the storage sites are connected to the networks via dedicated transmission lines (Col 5 lines 1-4) and a user in the connected user system can establish communication between data production site and the local storage device located at the off-site storage facility (Col 5, lines 37-39, lines 40-49). This allows in extending communication means between remote backup central communications storage facility and connected user system. For "receiving interface means operative to receive transmitted backup data from a connected user system and optionally translate the transmitted backup data storable data format for retrievable storage", Hamilton et al discloses the transmitted backup storage data is received to the data storage facility (Fig 2, Col 4 lines 36-59). It is also inherent that "transmitting interface means operative to retrieve said transmitted backup data and optionally translate said transmitted backup data from said storable data format user system data format for transmitting said transmitted backup data back to a connected user system via said generally independent and generally secure information transmission communication means" as remote backup central communications and storage facility can receive data, it can also send data back to the original site in a secure fashion. It is clearly disclosed by Hamilton et al in (Col 1 lines 40-44, Col 3 lines 10-15). Hamilton et al (Col 3 lines 66-67, Col 4 lines 1-6) clearly discloses "secure data storage means within said remote backup central communications and storage facility in information transmission connection with said receiving interface means and said transmitting interface means, said secure data storage means operative to securely

store transmitted backup data in said storable data format received via said receiving interface means there within until retrieved via said transmitting interface means."

In **Claim 2**, for "said remote backup central communications and storage facility is generally impervious to externally-based operational disruptions to facilitate generally uninterruptible exchange of stored transmitted backup data between connected remote user systems and said remote backup central communications and storage facility", Hamilton et al clearly discloses that the transmission is run on dedicated lines thus facilitating uninterruptible exchange of stored transmitted backup data between remote user systems and remote backup central communications and storage facility (Col 5 lines 1-4, lines 35-39, lines 40-49).

In **Claim 3**, for "said receiving interface means is further operative to receive incoming transmitted backup data, identify the specific user system data format of said incoming transmitted backup data, translate as necessary said incoming transmitted backup data into said storable data format generally free of significant modification of the informational content said incoming transmitted backup data and forward said incoming transmitted backup data to said secure data storage means within said remote backup central communications and storage facility", it is inherent that the incoming transmitted backup data is carried by an identified specific user in the system. It is clearly shown by Hamilton et al in (Col 3 lines 33-46). And for translation of necessary said incoming transmitted backup data along with storable data format generally free of significant modification of the informational content, it can be clearly seen by Hamilton

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et al in (Col 4 lines 36-67). In Hamilton et al (Col 4 lines 36-67), the data at the production site is manipulated and sent to data storage facility with storable data format generally free of significant modification of the informational content.

In **Claim 4**, for "The secure data backup communications system of claim 1 wherein said transmitting interface means further operative to receive outgoing transmitted backup data said storable data format from said secure data storage means within said remote backup central communications and storage facility, identify the original specific user system data format said outgoing transmitted backup data when received as incoming transmitted backup data, translate as necessary said outgoing transmitted backup data into said original specific user system data format generally free of significant modification of the informational content of said outgoing transmitted backup data and forward said outgoing transmitted backup data the connected user system requesting said outgoing transmitted backup data", it is inherent that the outgoing transmitted backup data is carried and identified by specific user in the system. It is clearly shown by Hamilton et al in (Col 3 lines 33-46, lines 47-50). And for translation of necessary said outgoing transmitted backup data along with storable data format generally free of significant modification of the informational content, it can be clearly seen by Hamilton et al in (Col 4 lines 36-67). In Hamilton et al (Col 4 lines 36-67), the data at data storage facility is manipulated and sent to connected user system with storable data format generally free of significant modification of the informational content.

In **Claim 5**, “the secure data backup communications system of claim 1 wherein said secure data storage means within said remote backup central communications and storage facility further comprises at least one electronic data storage device” is clearly disclosed by Hamilton et al (Col 1 lines 50-52, Col 8, Claim 4, and Claim 6)

In **Claim 6**, Hamilton et al clearly discloses the “said generally independent and generally secure information transmission connection between said remote backup central communications and storage facility and remote connected user systems optic, microwave, radio selected from the group comprising landline, fiber communications, satellite communications and cable” in (Col 6 lines 17-26, Col 7 lines 43-45).

In **Claim 7**, Hamilton et al clearly discloses “the method of providing a secure data backup communications system for providing remote secure data storage for connected user systems in the event of loss of on-site original or backup data” in (Col 1, lines 34-44, lines 50-52 and Col 2 lines 20-32). Hamilton et al shows “providing a generally independent and generally secure information transmission communication means separate from utility-based communications networks, said generally independent and generally secure information transmission communication means extending between and connecting said remote backup central communications and storage facility and a connected user system of said secure data backup communications system” in (Col 1 lines 40-44, Col 5 lines 1-4, lines 37-39, lines 40-49).

Hamilton et al discloses the method “providing receiving interface means operative to receive transmitted backup data from a connected user system and optionally translate the transmitted backup data to a storable data format for retrievable

storage” in (Col 3 lines 33-46). And Hamilton et al discloses the method of “providing transmitting interface means operative to retrieve said transmitted backup data and optionally translate said transmitted backup data from said storable data format to a user system data format for transmitting said transmitted backup data back to a connected user system via said generally independent and generally secure information transmission communication means ; providing secure data storage means within said remote backup central communications and storage facility in information transmission connection with said receiving interface means and said transmitting interface means ; receiving said transmitted backup data from a connected user system via said generally independent and generally secure information transmission communication means ; analyzing said transmitted backup data via said receiving interface means to determine the data format of said transmitted backup data ; translating said transmitted backup data via said receiving interface means into a storable data format generally free of significant modification of the informational content of said transmitted backup data” in (Col 3 lines 33-46, lines 47-50). And Hamilton et al clearly shows “storing said translated transmitted backup data in said secure data storage means” in (Col 8, Claim 4, and Claim 6).

And in “transmitting said translated transmitted backup data from said secure data storage means to said transmitting interface means upon receiving a request f or transmittal thereof from the specific connected user system; translating said translated transmitted backup data by said transmitting interface means to the original data format detected via said receiving interface means f or compatibility with the specific connected

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user system; and transmitting said transmitted backup data to the specific connected user system via said generally independent and generally secure information transmission communication means thereby providing requested backup data to the specific connected user system", Hamilton et al clearly discloses in (Col 3 lines 33-46, lines 47-50, Fig 4, Col 6 lines 26-45) as the transmission can be initiated by the user connected to the user system. And for translation of necessary said outgoing and incoming transmitted backup data along with storable data format generally free of significant modification of the informational content, it can be clearly seen by Hamilton et al in (Col 4 lines 36-67). In Hamilton et al (Col 4 lines 36-67), the data at data storage facility is manipulated and sent to connected user system (and vice versa) with storable data format generally free of significant modification of the informational content.

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**Conclusion**

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents  
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**Hand-delivered responses** should be brought to

Customer Service Window  
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Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Anish Sikri whose telephone number is (571) 270-1783. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Rafael Pérez-Gutiérrez can be reached on (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you


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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

*Anish Sikri*  
A.S./as

December 19, 2006

  
RAFAEL PEREZ-GUTIERREZ  
SUPERVISORY PATENT EXAMINER  
12/27/06